

SUBCOMMITTEE NO. 4

Agenda

Joseph Dunn, Chair
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Hearing Outcomes

Wednesday, May 12, 2004
1:30 p.m.
Room 3191

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1110 Contractors' State License Board

The Contractors' State License Board protects consumers by regulating the construction industry through policies that promote the health, safety, and general welfare of the public in matters relating to construction.

The Board accomplishes this by:

- Ensuring that construction is performed in a safe, competent and professional manner;
- Licensing contractors and enforcing licensing laws;
- Providing resolution to disputes that arise from construction activities; and
- Educating consumers so that they make informed choices.

Consent Issue:

1. **Augmentation for SB 1953 Contractor Fingerprint Requirement (FL #1).** The Administration requests 3.0 positions (2.8 personal years) and \$187,000 (\$146,000 ongoing) from the Contractors' License Fund to implement the fingerprinting program required by Senate Bill 1953 (Chapter 744, Statutes of 2002). The fingerprints are required from applicants for conducting criminal history record checks to further public safety.

Staff Comment: At the time SB 1953 was heard, it was anticipated that the fingerprinting requirement would increase costs by about \$227,000 annually, so this request falls below the anticipated cost.

Staff Recommendation: Staff recommends the subcommittee approve the Administration's request.

Action: Approved the Administration's request on consent, 3-0 vote.

1110 Board of Registered Nursing

The Board of Registered Nursing ensures that registered nurses are competent and safe to practice through 1) sound licensing standards, 2) an effective enforcement program to prosecute violations of the Nursing Practice Act, 3) a diversion program to intervene with chemically dependent or mentally ill nurses, 4) oversight of nursing school programs, and 5) public education efforts.

Consent Issue:

1. **One-time Augmentation for Legal Costs (FL #1).** The Administration requests \$229,000 in one-time funding from the Board of Registered Nursing Fund to reimburse the Attorney General for costs associated with a suit brought by Excelsior College. The Administration indicates this large case cannot be absorbed within existing resources.

Staff Comment: The Board is not requesting a permanent augmentation. The Attorney General recently increased its rates for legal services.

Staff Recommendation: Staff recommends the subcommittee approve the Administration's request.

Action: Approved the Administration's request on consent, 3-0 vote.

2150 Department of Financial Institutions

The Department of Financial Institutions (DFI) was established effective July 1, 1997, to regulate depository institutions, including commercial banks, savings associations, credit unions, industrial loan companies, and certain other providers of financial services. In addition, the Department licenses and regulates issuers of payment instruments, including companies licensed to sell money orders and/or travelers' checks or licensed to engage in the business of transmitting money abroad, and business and industrial development corporations. Programs are supported by assessment of the various industries, license and application fees, and charges for various other services.

The DFI budget is proposed to increase from \$21.5 million in the current year to \$23.6 million in the budget year. No General Fund support.

Issues

1. New Workload for the California Financial Information Privacy Act (BCP #2):

The Administration requests \$1,881,000 and 17.0 positions to address the increased workload related to the provisions within Senate Bill 1 (Chapter 241, Statutes of 2003), which restricts financial institutions from sharing non-public personal information. The Administration requests:

- a) 12.0 Senior Financial Institution Examiners to conduct regular field examinations, and investigate complaints
- b) 2.0 Staff Counsel IV's to approve the forms of disclosure and litigate
- c) 1.0 Senior Legal Secretary
- d) 1.0 Staff Services Analyst
- e) 1.0 Associate Information Systems Analyst.

An increase of 17 positions represents a 9 percent increase in total staffing. The Senate policy analysis for SB 1 estimated "moderate enforcement costs, probably less than \$1 million annually," with the cost of enforcement spread across four departments: Justice; Financial Institutions; Insurance; and Corporations.

April 21 Hearing: This issue was heard on April 21 and the subcommittee kept the issue open so staff could gather more information from the department on staffing alternatives. The following alternatives have been developed:

Staffing Alternatives

Options	Description	Positions	Cost
1	Investigate and litigate based on complaints, but do not incorporate SB 1 audits into bi-annual examinations.	6.0	\$679
2	Investigate and litigate based on complaints, and also perform nonroutine, "red flag" SB 1 audit checks triggered by a certain level of complaints against individual licensees.*	6.0	\$679
3	Investigate and litigate based on complaints, and also perform SB 1 audit checks on 25 percent of firms each bi-annual cycle.	8.0	\$907
4	Investigate and litigate based on complaints, and also perform SB 1 audit checks on 50 percent of firms each bi-annual cycle.	12.0	\$1,363
5	BCP Request: Investigate all firms for SB 1 compliance during bi-annual examinations and follow-up on complaints	17.0	\$1,881

* DFI indicates that for them, Option 2 would be the same as Option 1.

All of the above options assume the DFI reviews notification forms as required by SB 1.

Staff Comment: The LAO withheld recommendation on this proposal in its *Analysis of the Budget Bill* citing too many unresolved issues regarding the interaction between Chapter 241 and federal law. A lawsuit was recently filed against the Department concerning federal preemption of state law. If the lawsuit were successful, the workload associated with SB 1 would decline, however the DFI indicated it is not able to estimate that workload change at this time.

Staff Recommendation: Approve Option 3 to investigate and litigate complaints and investigate 25 percent of firms for compliance every cycle. Add the following provisional language to item 2150-001-0298:

Provisions:

- The Department of Financial Institutions shall report to the budget committees of each house of the Legislature and the LAO by January 10, 2006, on (a) the level of non-compliance found with Chapter 241, Statutes of 2003, (b) any changes to state or federal law, or court decisions, that affect Chapter 241 workload, and (c) any staffing changes requested based on the level of compliance or changes in law.*

Action: Held open.

2180 Department of Corporations

The Department of Corporations (DOC) protects the public and provides businesses with a financial services marketplace that is cost-effective and efficient through administration and enforcement of state laws regulating securities, franchise investment, lenders, and fiduciaries. Activities include licensing, examination, investor, and consumer education, and responding to public inquiries and complaints. Each program enforces its laws through administrative and civil actions.

The DOC budget is proposed to increase from \$26.9 million in the current year to \$29 million in the budget year. No General Fund support.

Issues

1. **New Workload for the California Financial Information Privacy Act (BCP #2):** (Note, this issue overlaps with the prior DFI discussion on the California Financial Information Privacy Act.) The Administration requests \$1,945,000 and 22.0 positions (including one limited-term position) to address the increased workload related to the provisions within Chapter 241, Statutes of 2003 (SB 1), which restricts financial institutions from sharing non-public personal information. The Administration requests staffing increases in the following areas:
 - a) Regulatory Examination Workload: 9.0 positions
 - b) Customer Service Calls: 1.0 position
 - c) Duty Counsel: 1.0 position
 - d) Complaint Review and Investigation: 2.0 positions
 - e) Enforcement and Litigation: 8.0 positions
 - f) Regulations, Releases, Opinions, Forms Review and Training: 1 limited-term position.

An increase of 21 positions represents a 9 percent increase in total staffing. The Senate policy analysis for SB 1 estimated “moderate enforcement costs, probably less than \$1 million annually,” with the cost of enforcement spread across four departments: Department of Justice, Financial Institutions, Insurance and Corporations.

April 21 Hearing: This issue was heard on April 21 and the subcommittee kept the issue open so staff could gather more information from the department on staffing alternatives. The following alternatives have been developed:

Staffing Alternatives			
Options	Description	Positions	Cost (1,000s)
1	Investigate and litigate based on complaints, but do not incorporate SB 1 audits into periodic examinations.	8.0	\$782
2	Investigate and litigate based on complaints, and also perform nonroutine, "red flag" SB 1 audit checks triggered by a certain level of complaints against individual licensees.	10.0	\$932
3	Investigate and litigate based on complaints, and also perform SB 1 audit checks on 25 percent of firms each examination cycle.	11.0	\$1,005
4	Investigate and litigate based on complaints, and also perform SB 1 audit checks on 50 percent of firms each examination cycle.	14.0	\$1,272
5	BCP Request: Investigate all firms for SB 1 compliance during examinations and follow-up on complaints	22.0	\$1,945

All of the above options assume the Department of Corporations reviews notification forms as required by SB 1. All of the above include some one-time costs that do not exceed \$260,000 in any alternative.

Staff Comment: The LAO withheld recommendation on this proposal in its *Analysis of the Budget Bill* citing too many unresolved issues regarding the interaction between Chapter 241 and federal law. A lawsuit was recently filed against the Department concerning federal preemption of state law. If the lawsuit were successful, the workload associated with SB 1 would decline, however the Department of Corporations indicates it is not able to estimate that workload change at this time.

Staff Recommendation: Approve Option 3 to investigate and litigate complaints and investigate 25 percent of firms for compliance every cycle. Add the following provisional language to item 2180-001-0067:

Provisions:

2. *The Department of Corporations shall report to the budget committees of each house of the Legislature and the LAO by January 10, 2006, on (a) the level of non-compliance found with Chapter 241, Statutes of 2003, (b) any changes to state or federal law, or court decisions, that affect Chapter 241 workload, and (c) any staffing changes requested based on the level of compliance or changes in law.*

Action: Held open.

2240 Department of Housing and Community Development

A primary objective of the Department of Housing and Community Development (HCD) is to expand and preserve safe and affordable housing opportunities and promote strong communities for all Californians. The department administers housing finance, economic development and rehabilitation programs; proposes housing policy; analyzes and implements building codes; and enforces construction standards for manufactured homes.

The HCD budget is proposed to decrease from \$772.5 million in the current year to \$619.1 million in the budget year. The General Fund support in the current year is \$15.7 million and is proposed at \$14.2 million in the budget year.

Issues for Discussion:

1. **Daily Rental Rates for Farmworker Housing:** HCD indicates it plans to use existing statutory authority to increase farmworker-housing rental rates by \$2.00 per day, effective July 1, 2004. The existing and new rates are as follows:

Daily Rental Rates by Size of Unit			
	2 Bedroom	3 Bedroom	4 Bedroom
Current	\$7.50	\$8.00	\$8.50
New	\$9.50	\$10.00	\$10.50

Last year, the Legislature approved a trailer bill (AB 1756) that prohibited HCD from increasing any rent charged at a migrant farm labor center during the 2003-04 fiscal year.

HCD indicates that absent the \$2 rent increase, a General Fund augmentation of \$300,000 would be required in 2004-05 to continue the program at the proposed level (and about \$600,000 ongoing). If the rent increase were held to \$1 per day, the General Fund augmentation would be \$150,000 in 2004-05 (and about \$300,000 ongoing).

The LAO indicates that the rents were last raised in 1997-98.

Staff Comment: Housing and Community Development Committee staff have suggested an option of trailer bill language that would allow the \$2 increase but limit future increases without legislative approval to an amount wherein rent would not exceed 30 percent of the average farmworker household income. HCD indicates the proposed rates for 2004-05 would not exceed 30 percent of the average farmworker household income (based on their survey of renters).

Staff Recommendation: Approve the attached trailer bill language that would constrain rents for residents of Office of Migrant Services facilities to a level not to exceed 30 percent of the average household incomes of center residents unless specific legislative authorization for a higher rent level has been received.

Action: Approved attached trailer bill language, 3-0 vote.

- 2. Mandate for Regional Housing Plan.** The budget proposes to defer the mandate on regional housing needs assessments. Last year the prior Administration also proposed a deferral and this subcommittee restored mandate funding of \$750,000 for councils of governments (COGs) and adopted budget bill language to specify the funding was for COGs (the funding and language was deleted by the Legislature in the final budget bill). Statute requires COGs to assess a locality its share of the regional housing need. As part of its general plan, every city and county is required to prepare a "housing element" which assesses the conditions of its housing stock and outlines a five-year plan for housing development. The housing element must be approved by HCD - the LAO indicates less than 60 percent of local governments currently meet this obligation.

LAO Recommendation from the *Analysis of the Budget Bill*: Eliminate the mandate for regional planning. The LAO indicates the planning mandate costs about four times more than the Legislature expected and may not increase the construction of affordable housing. Repeal of the mandate would save the General Fund about \$4 million in annual liabilities. The LAO recommends that if the Legislature wishes to impose certain mandated requirements, the best approach would be to "start from scratch," and develop a new process through the normal legislative process.

April 21 Hearing Outcome: This issue was heard by the subcommittee on April 21, but kept open. During the discussion, the subcommittee questioned the high cost of this mandate.

LAO Options to Lower the Costs of this Mandate: Since the April 21 hearing, the LAO has worked with HCD, the Mandates Commission, and legislative staff to develop options to lower the cost for this mandate. The Board of Control adopted the Parameters and Guidelines for this mandate prior to the establishment of the Mandates Commission. The Commission has indicated that under current interpretation of case law, COGs may not be eligible for reimbursement, although this determination would not be made unless a request is received by a party with standing (a legislator, a State department, etc.) to reconsider the adopted Parameters and Guidelines. The LAO estimates the 2004-05 cost of the mandate for COGs to be \$1 million.

COG Mandate Options: The LAO provided the following non-codified trailer bill language that would request the Mandates Commission to reexamine the existing mandate finding for COGs:

Notwithstanding any other provision of law, the Commission on State Mandates shall reconsider the Board of Control decisions (3916, 3759, 3760, and 3929) regarding the regional housing needs mandate (Chapter 1143 of the Statutes of 1980) to determine whether the statute is a reimbursable mandate under Section 6 of Article XIII B of the California Constitution in light of federal and state statutes enacted and federal and state court decisions rendered since this statute was enacted. The Commission, if necessary, shall revise its Parameters and Guidelines to be consistent with this reconsideration. Any changes by the Commission shall be deemed effective July 1, 2004.

If the Mandates Commission were to find no State reimbursement requirement exists in the case of COGs, the General Fund liability for this cost would be eliminated. If the Legislature wished to continue COG reimbursements for this expense the LAO suggests either the establishment of a State General Fund grant program or the adoption of the following language that would allow COGs to recover their costs through fees:

Add to Government Code 65584

(h) Councils of government may charge a fee to local governments to cover the reasonable, actual costs of the council in implementing this section. Any fee shall not exceed the estimated amount required to implement its obligations under this section. A city or county, or city and county may charge a fee, including, but not limited to, a fee pursuant to Section 65104 to support the work of the planning agency, to reimburse it for the cost of any fee charged by the council of government to cover the council's actual costs in implementing this section. The legislative body of the city, county or city and county shall impose any fee pursuant to Section 66016.

City and County Mandate Options: The LAO provided trailer bill language that would specify some of the housing element activities are optional and therefore not reimbursable:

Add Government Code Section 65584 (h) to read:

(h) Any review or appeal by a locality of the allocation data provided by the department or the council of governments regarding its share of the regional housing need, or submittal of data or information for a proposed allocation, as permitted by this section, is not mandatory and is conducted by a locality at its option.

~~Government Code Section 65583 (b)(7) An analysis of opportunities for energy conservation with respect to residential development.~~

Add Government Code 65583.05:

The housing element may contain, at a locality's option, an analysis of opportunities for energy conservation with respect to residential development.

The LAO continues to look at the farmworker-housing component of the mandate. Some urban cities and counties with little farmland are claiming high costs for this mandate, which could be reduced.

Staff Comment: At the hearing, the LAO should explain options for lowering the cost of this mandate.

Staff Recommendation: Direct staff to work with the LAO to finalize trailer bill language for the next hearing.

Action: Held open.

8380 Department of Personnel Administration

The Department of Personnel Administration (DPA) manages the nonmerit aspects of the State's personnel system. The goals of the DPA are to ensure proper administration of existing terms and conditions of employment for the State's civil service employees, and to represent the Governor as the employer in all matters concerning State employer-employee relations. The DPA also administers the personnel classification plan, develops the compensation plan, including terms and conditions of employment, and develops and implements the training plan for the State's management team and other employees not represented in the collective bargaining process.

Consent Issue:

- 1. Reduction to the DPA Support Appropriation to Reflect Savings (FL #2).** The Administration requests a \$250,000 reduction to the General Fund appropriation to reflect savings from the expiration of the Memorandum of Understanding with Bargaining Unit 17 (Registered Nurses), which obligated the State to make payments to a union scholarship fund. Under the agreement, eligible nurses were able to obtain monetary assistance to continue their education for a specific academic certification. The scholarship funding was limited in nature and expires with the current contract on June 30, 2004.

Staff Comment: Finance indicates that if this scholarship funding is included in the next contract, the funding can be provided through the 9800 Item – augmentation for Employee Compensation, instead of the DPA appropriation.

Staff Recommendation: Staff recommends the subcommittee approve the Administration's request.

Action: Approved the Administration's request on consent, 3-0 vote.

8940 Military Department

The Military Department is responsible for the command and management of the California Army, Air National Guard, and four other related programs.

The Governor proposes \$93.9 million (\$31 million from the General Fund and \$56.4 million from federal funds) in total expenditures for the Military Department, a decrease of \$13 million from the current fiscal-year. Additional federal funding of \$571.3 million supports the Army National Guard, Air National Guard, and Office of the Adjutant General, but those funds are not deposited in the State Treasury.

Proposed Consent Issues

The following list summarizes a number of Budget Change Proposals and Finance Letters submitted by the Military Department.

Issue Title	Positions	Dollars
1. Homeland Security Augmentation for Equipment, Training, Exercises, and Infrastructure. Requests one-time reimbursement authority of \$2.1 million and 7 limited term positions to spend grant funds awarded by the Office of Emergency Services for homeland security. These funds would be used for training and exercises. (Reimbursement Authority)	7.0	\$2,116,000
2. Establish Five Active Duty Firefighter Positions for the Fresno Air National Guard Base. Requests permanent five active duty firefighter positions at the Fresno Air National Guard Base due to increased workload requirements. (Federal Funds).	5.0	\$383,000
3. Increase Active Duty Captain Positions to Operate Military Construction Program. Requests three full-time project managers for the Major Military Construction Program, Sustainment, Restoration, and Modernization Program, and the Armory Maintenance Program. These positions would replace three federal project managers positions being eliminated by the National Guard Bureau. (Federal Funds).	3.0	\$360,000
4. Joint Training and Experimentation Program. Requests funding to establish a program manager for the Joint Training and Experimentation Program. (Federal Funds).	1.0	\$133,000
5. Operations Ready Family Program. Requests funding and one position to manage and oversee the family Assistance Center Coordinators. (Federal Funds).	1.0	\$129,000
6. Re-Establish Three Environmental Programs Positions. Requests position authority to re-establish three abolished positions in the California Environmental Program to ensure that the Army National Guard is in compliance with environmental laws and regulations. (Federal Funds).	3.0	
7. General Fund Reduction. Requests a General Fund reduction to the California Cadet Corps and the California National Guard Youth Programs. The reductions include \$375,000 from the Cadet Corps, \$875,000 to the Oakland Military Institute, \$82,000 from the Challenge Youth Academy, and \$50,000 from the STARBASE program.	-11.0	-\$1,382,000
8. Finance Letter – Increase State Active Duty Compensation. Requests and increase of \$722,000 from the General Fund and \$960,000 in federal funds to increase State Active Duty compensation based on federal military compensation.		\$1,682,000

10. New Bakersfield Armory. Requests \$5 million General Fund and \$6.4 million federal funds for preliminary plans, working drawings, construction, and equipment for a new armory in the City of Bakersfield.		\$11,415,000
11. Advanced Plans and Studies. Requests federal funds for capital outlay advance plans and studies.		\$836,000
12. Finance Letter – Renovation and Expansion of the Roseville Armory. Requests \$411,000 from the General Fund and \$202,000 from federal funds to replace heating, plumbing, electrical, and telephone systems at the Roseville armory. Also funding for expansion of the current facility.		\$613,000
13. Finance Letter – Reappropriation. Requests to reappropriate funding for working drawings, construction, and equipment for the Lancaster Armory. Reappropriation is necessary due to environmental mitigation issues that delayed completion of the acquisition and the preliminary plans.		

Staff Recommendation. No issues have been raised. Staff recommends approval of the listed Budget Change Proposals and Finance Letters.

Action.

Approved consent items (3-0)

Issues

1. Santa Ana Armory. The armory in Santa Ana was built in 1957. It currently houses a rifle company with approximately 100 national guardsmen. It is used as a training site one weekend per month. The remainder of the month it is used primarily for vehicle and equipment storage.

The armory is on a 3.5-acre site between an elementary school and a park. Both the elementary school and the park were developed after the armory was built.

If the armory were moved, the armory would need to be larger and upgraded to current standards. The funding is split between the federal government and the state government. The City of Santa Ana is currently searching for a site for the new armory.

What is the status of efforts to locate alternative federal or state property?

Action:

Issue Held Open

2. Los Alamitos Armed Forced Reserve Center - Fire Protection Services. The firefighters of the Los Alamitos Joint Forces Training Base (LAJFTB) are employees of the Military Department. The employees are considered on state active duty. The Military Department pays these firefighters from federal funds. The employees have

similar protections to civil servants, although they do not have collective bargaining rights.

The Los Alamitos firefighters have attempted to convert their personnel status over the last twenty years. Legislation was enacted in 1993 that allowed these firefighters to convert to state civil service provided that federal dollars were made available to cover related conversion costs. Federal funding has not been appropriated for this purpose.

In November 2003, Governor Davis signed Executive Order D-75-03, requiring the Department of Finance to negotiate with the firefighters to convert to civil service within the Orange County Fire Authority.

In April 2004, the Military Department sent a status on the issue indicating that federal regulations prohibit them from contracting out for the firefighter positions at Los Alamitos.

Do other military bases or installations in California contract for firefighting activities?

Action:

Issue Held Open

3. Finance Letter – Restoration of Funding for the Oakland Military Institute (OMI). This Finance Letter requests to restore \$875,000 in funding and 11 positions that were proposed to be eliminated as part of the General Fund Reduction BCP (see issue #7 in the consent list above). Restoration of this item would reduce the originally proposed General Fund reduction of \$1.4 million to \$507,000.

In the current year the Military Department anticipates expenditures of \$2.2 million and 24.3 positions for the OMI. The January reduction would leave \$1.3 million and 13 positions for this activity. This funding provides for assistant teachers in the classrooms to teach military customs and military history, and for extra curricular activities such as physical education, drill and ceremonies, leadership, and team development. This funding is on top of funding that the OMI receives similar to any other charter school in the state under Proposition 98. In its third year of operation, the Military Department indicates that OMI had 321 students enrolled in grades 7-9, primarily from Oakland and the East Bay area.

Staff Comments. For the current year, with an estimated ADA of 296, staff notes that in these General Fund expenditures through the Military Department translate to per pupil spending of over \$7,400 on top of state funding through Proposition 98. Statewide Proposition 98 spending averages about \$7,000 per ADA.

Staff Recommendation. Staff recommends rejection of the Finance Letter. This action would leave \$1.3 million in the Military Department budget for this activity.

Action:

Issue Held Open

Attachment A

Housing and Community Development – Issue #1: Trailerbill language related to rent increases at migrant worker housing facilities.

Amend section 50710.1 of the Health and Safety Code as follows:

50710.1. (a) If all the development costs of any migrant farm labor center assisted pursuant to this chapter are provided by federal, state, or local grants, and if inadequate funds are available from any federal, state, or local service to write-down operating costs, the department may approve rents for that center which are in excess of rents charged in other centers assisted by the Office of Migrant Services. However, notwithstanding any other provision of law, commencing with the 2005 growing season the Department of Housing and Community Development shall not increase rents for residents of Office of Migrant Services facilities to a level which represents more than 30 percent of the average annualized household incomes of center residents without specific legislative authorization for such increase. ~~Prior prior to approving these rents, the department shall consider the adequacy of evidence presented by the entity operating the center that the rents reimburse actual, reasonable, and necessary costs of operation. The department may not increase any rent charged at a migrant farm labor center during the 2003-04 fiscal year.~~

(b) At the end of each fiscal year, any entity operating a migrant farm labor center pursuant to this chapter may establish a reserve account comprised of the excess funds provided through the annual operating contract received from the department, if the department certifies there is no need to address reasonable general maintenance requirements or repairs, rehabilitation, and replacement needs of the requesting migrant farm labor center which affect the immediate health and safety of residents. The cumulative balance of the reserve account shall not exceed 10 percent of the annual operating funds annually committed to the entity by the department. Funds in the reserve account shall be used only for capital improvements such as replacing or repairing structural elements, furniture, fixtures, or equipment of the migrant farm labor center, the replacement or repair of which are reasonably required to preserve the migrant farm labor center. Withdrawals from the reserve account shall be made only upon the written approval of the department of the amount and nature of expenditures.

(c) A migrant farm labor center governed by this chapter may be operated for an extended period beyond 180 days after approval by the department, provided that all of the following conditions are satisfied:

(1) No additional subsidies provided by the department are used for the operation or administration of the migrant farm center during the extended occupancy period except to the extent that state funds are appropriated or authorized for the purpose of funding all or part of the cost of subsidizing extended occupancy periods during the first 14 days only.

(2) Rents are not to be increased above the rents charged during the period immediately prior to the extended occupancy period unless the department finds that an increase is necessary to cover the difference between reasonable operating costs

necessary to keep the center open during the extended occupancy period and the amount of state funds available pursuant to paragraph (1) and any contributions from agricultural employers or other federal, local, or private sources. These contributions shall not be used to reduce the amount of state funds that otherwise would be made available to the center to subsidize rents during an extended occupancy period.

(3) In no event shall the rent during the extended occupancy period exceed the average daily operating cost of the center, less any subsidy funds available pursuant to paragraph (1) or (2). Households representing at least 25 percent of the units in the center shall have indicated their desire and intention to remain in residency during an extended occupancy period by signing a petition to the local entity to keep the center open for an extended period at rents that are the same or higher than rents during the regular period of occupancy. Each household shall receive a clear bilingual notice describing the extended occupancy options attached to the lease.

The Legislature finds and declares that because the number of residents may be substantially reduced during the extended occupancy period, a rent increase may be necessary to cover operating costs. It is the intent of the Legislature that the public sector, private sector, and farmworkers should each play an important role in ensuring the financial viability of this important source of needed housing.

(4) An extended occupancy period is requested by an entity operating the migrant farm labor center and received by the department no earlier than 30 days and no later than 15 days prior to the center's scheduled closing date. The department shall notify the entity and petitioning residents of the final decision no later than seven days prior to the center's scheduled closing date. During the extended occupancy period, occupancy shall be limited to migrant farmworkers and their families who resided at a migrant center during the regular period of occupancy.

(5) Before approving or denying an extension and establishing the rents for the extended occupancy period, both of which shall be within the sole discretion of the department, the department shall take into consideration all of the following factors:

(A) The structural and physical condition of the center, including water and sewer pond capacity and the capacity and willingness of the local entity to operate the center during the extended occupancy period.

(B) Whether local approvals are required, and whether there are competing demands for the use of the center's facilities.

(C) Whether there is adequate documentation that there is a need for residents of the migrant center to continue work in the area, as confirmed by the local entity.

(D) The climate during the extended occupancy period.

(E) The amount of subsidy funds available that can be allocated to each center to subsidize rents below the operating costs and the cost of operating each center during the extended occupancy period.

(F) The extended occupancy period is deemed necessary for the health and safety of the migrant farmworkers and their families.

(G) Other relevant factors affecting the migrant farmworkers and their families and the operation of the centers.

(6) The rents collected during the extended occupancy period shall be remitted to the department. However, based on financial records to the satisfaction of the department, the department may reduce the amount to be remitted by an amount it determines the

local entity has expended during the extended occupancy period that is not being reimbursed by department funds.

(7) The occupancy during the extended occupancy period represents a new tenancy and is not subject to existing and statutory and regulatory limitations governing rents. Prior to the beginning of the extended occupancy period, residents shall be provided at least two days' advance written notice of any rent increase and of the expected length of the extended occupancy period, including the scheduled date of closure of the center, and prior to being eligible for residency during the extended occupancy period, residents shall sign rental documents deemed necessary by the department.

(d) The Legislature finds and declares that variable annual climates and changing agricultural techniques create an inability to accurately predict the end of a harvest season for the purposes of housing migrant farmworkers and their families. Because of these factors, in any part of this state, and in any specific year, one or more migrant farmworker housing centers governed by this chapter need to remain open for up to two additional weeks to allow the residents to provide critical assistance to growers in harvesting crops while also fulfilling work expectations that encouraged them to migrate to the areas of the centers. In addition, if the centers close prematurely, the migrant farmworkers often must remain in the areas to work for up to two weeks. During this time they will not be able to obtain decent, safe, and affordable housing and the health and safety of their families and the surrounding community will be threatened.

The Legislature therefore finds and declares that, for the purposes of any public or private right, obligation, or authorization related to the use of property and improvements thereon as a 180-day migrant center, an extended use of any housing center governed by this chapter pursuant to this section is deemed to be the same as the 180-day use generally authorized by this chapter.